HON'BLE SRI JUSTICE NOOTY RAMAMOHANA RAO

Writ Petition No. 36038 of 1998

Date: 05.12.2007

Between:

A. Venkata Krishna Rao

… Petitioners

and

Andhra Pradesh State Road Transport Corporation, Hyderabad rep. by its Managing Director & others

… Respondents

O R D E R:

The writ petitioner, who has been appointed as a Junior Clerk at the Regional Work Shop of the Andhra Pradesh State Road Transport Corporation, Vijayanagaram (henceforth referred to as 'the Corporation') on 17.05.1973, exercised an option to work with the stores department of the Corporation from 09.04.1974. Therefore, the petitioner was re-categorized as an Assistant Warder with effect from 17.05.1973 and he continued to work in the stores department of the Corporation. However, with a view to attract the best talent, the Corporation has taken a policy decision through its resolution No. 91 of 1976 on 19.06.1976 to appoint Assistant Warders by the method of direct recruitment, duly sanctioning those recruited with four additional increments in the scale of pay of Rs.110-7-180-9225 for such of those candidates who are in possession of LME, LAE or graduation qualification. In terms of this resolution of the Corporation, all those candidates who were appointed as Assistant Warders and possessing the diploma qualification in Mechanical Engineering or Automobile Engineering or possessing graduation qualification got their pay fixed at Rs.138/- as their starting pay in the scale of pay of Rs.110 to 225/-, but some of the candidates were granted the benefit of only two advance increments in accordance with the revised pay scale of 1976. They approached this Court and instituted Writ Petition No.3355 of 1980. This Court, by its order dated 22.08.1986, found the action of the Corporation as not justifiable and, therefore, ordered for grant of four advance increments in favour of such candidates, who have been appointed as Assistant Warders in the stores department of the Corporation even prior to 19.06.1976. Consequently, all those 19 persons, who approached this Court and instituted Writ Petition No. 3355 of 1980, had the benefit of four additional increments.

The writ petitioner herein had not been sanctioned the benefit of the four additional increments on the ground that he was not a direct recruitee but got re-categorized as an Assistant Warder from the post of Junior Clerk. However, the Corporation had re-examined the matter and the Managing Director had passed order on 27.04.1989 according sanction to allow additional increments to all the stores personnel who are appointed as Assistant Warders between 01.01.1976 and 31.03.1977. Again, this has resulted in leaving out the Assistant Warders appointed prior to 01.01.1976. The issue was re-examined once again and the Corporation has found that even those persons, who have been appointed as Assistant Warders prior to 01.01.1976, are entitled to be paid the four additional increments. Accordingly, the petitioner, having been appointed as an Assistant Warder on re-categorization basis with effect from 17.05.1973 also had his pay fixed, duly sanctioning him four additional increments. On re-examination of the entire matter, the Corporation has taken a decision that such of those candidates who got appointed other than by direct recruitment method are not entitled to have the benefit of four additional increments and, therefore, their pay should be re-fixed withdrawing the additional increments sanctioned to them and also ordered for recovery of the money paid to them only due to re-fixation of their pay by sanctioning four additional advance increments. This order was passed on 17.05.1997 which is challenged in this writ petition.

Heard Sri T. Bala Mohan Reddy on behalf of Sri R. Raghunandan, learned counsel for the petitioner and Sri K. Madhava Reddy, learned counsel for the Corporation.

The case of the petitioner, simply put it, is that he has been

appointed as an Assistant Warder by way of re-categorization, while he was working as a Junior Clerk. Though he may not have been recruited directly as an Assistant Warder, but nonetheless, he came to be appointed to the said post from the initial date of appointment in the stores department. If the stores department had adopted the method of re-categorization of the existing employees and rendered them eligible to be appointed as Assistant Warders, there could not have been any discrimination meted out in the matter of re-fixation of pay based upon the sources of recruitment. The contention of the petitioner is that one can understand if an additional increment or increments have been sanctioned in favour of few candidates based upon special features exclusively available to them, such as academic distinctions or experience, but what the Corporation has done in this case was that it sanctioned four additional increments in favour of all such candidates who possess LME, LAE or graduation qualification but got directly recruited as Assistant Warders. The advance increments, therefore, are sought to be confined in their application only to the directly recruited Assistant Warders and those who have been recruited as Assistant Warders by other methods, though they also possess the same set of qualifications namely; LME, LAE or graduation, are denied the benefit of the four advance increments. The Corporation could not have picked up some candidates who possess LME, LAE or graduation qualification for sanction of four additional advance increments and deny the same benefit to such of those Assistant Warders who also possess the same set of qualifications, but who came to the post of Assistant Warder due to re-categorization of their employment with the same Corporation. Clearly, what the Corporation has done was discriminatory. The discrimination was based upon their sources of recruitment, which is impermissible under law. It is

violative of the fundamental rights guaranteed both under Articles 14 and 16 of the Constitution of India.

Hence, the impugned action of the Corporation in re-fixing the pay of the petitioner only on the ground that he came to be re-categorized as an Assistant Warder from the cadre of Junior Clerk is illegal.

Therefore, the impugned order is quashed and the Corporation is restrained from either re-fixing or recovering from the pay of the petitioner.

The writ petition is accordingly allowed. However, in the circumstances, there shall be no order as to costs.

(NOOTY RAMAMOHANA RAO, J)

December 05, 2007
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